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ADOPTION OF THE REPORT OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

Draft report

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Addendum

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION

Libyan Arab Jamahiriya

1. The Committee considered the initial report of the Libyan Arab Jamahiriya (CEDAW/C/LIB/1 and Add.1) at its 237th and 240th meetings on 19 and 21 January 1993 (CEDAW/C/SR.237 and 240).

2. In introducing the report, the representative of the Libyan Government apologized that the Assistant Secretary of the General People's Congress who was a woman was not able to attend and personally have a dialogue with the members of the Committee. He gave an overview of the structure of the report and highlighted its main points. He said that in his country there were no laws that were in any way discriminatory against women. Libyan legislation contained the principle of equality of women and men. The Islamic Shariah equally emphasized the importance of women in society.

3. He mentioned the modified school curricula that ensured the elimination of stereotypes and said that women received the same education as men and were encouraged to enter any kind of occupation. Prostitution was prohibited and there were no obstacles to the participation of women in political and public life. A woman held the post of Assistant Secretary of the General People's Congress and women had the same rights as men to participate in professional

associations. The General Union of Women's Associations had been created for the promotion of women. The percentage of women in education was increasing and women were sometimes provided with better facilities than men. Maternity had no effect on seniority, social allowances and the job situation. However, women had not yet reached the same positions as men at high levels.

4. Women were considered as the cornerstone of the society. They were equal to men before the law, they had equal rights as regards the custody of their children and they were the partners of men in civil, cultural and social life. Women could write their own wills, independent of men, and had the right to choose their husbands. Women had made big strides in the last 25 years, considering the conditions they had previously experienced in that region and, as they had penetrated all spheres of life, the country had laid a firm basis for equality.

1. General observations

5. Members of the Committee commended the country's accession to the Convention. While thanking the representative for having appeared before the Committee, they indicated concern that Libyan women could not be present themselves to talk about their experiences. General and serious concern was expressed about the reservation that had been entered at the time of accession and about the fact that the reservation was not at all touched upon in the report. Members asked whether the Government had not taken into consideration the objections that had been raised by many countries with a view to reconsidering the issue. Bearing in mind that the Islamic Shariah had given equality to women, as mentioned in the report, it did not seem clear why the reservation was still maintained, particularly as it constrained the Government's ability to comply with article 2 of the Convention. Members felt that the interpretation of the Koran had to be reviewed in the light of the provisions of the Convention and in the light of the present social environment. It was not possible to speak of equal rights of women and yet to maintain gender differentiation and sexual stereotypes, such as insisting on the role of women as housekeepers.

6. In replying to the concerns of the members, the representative of the State party explained that the Islamic religion was designed to emancipate men and women from all forms of slavery by prohibiting injustice, making the promotion of women a precondition for the road to paradise and in calling for equality among all human beings. Any gender difference, if considered objectively, did not constitute discrimination based on sex. Reservations were entered by Islamic countries in order to avoid embarrassment in view of the literal meaning of legal texts. He assured the Committee that its concerns would be conveyed to the competent authorities.

7. In additional comments, members observed that they were still unclear about the reasons for the country's maintenance of its reservation to the Convention. They said that the reservation was very much related to the question of interpretation of the Islamic Shariah. They felt that the Islamic Shariah was very supportive of women's equality, rights and dignity. However, it had come into force 1,500 years ago and was not immutable. The Shariah itself gave

equality to women, but the problem that had to be overcome was that of interpretation. Religions should evolve over time, but the evolution or El Ijtihad, the interpretation of the Shariah had come to a standstill three centuries ago. The thinking about some religious roles had not evolved from that time and it was not proper to apply a standard that had applied several centuries ago to the present world. In some countries the Shariah had been interpreted in a more progressive way, as a result of the political will of the Government. The Koran permitted El Ijtihad for the interpretation of the Islamic religion. Therefore, efforts should be made to proceed to an interpretation of the Shariah that was permissible and did not block the advancement of women. The Government was urged to take a leading role in its interpretation of the Shariah as a model for other Islamic countries. Reservations that were incompatible with the goals of the Convention were not acceptable.

8. Although members commended the Government for the timely submission of its report, they criticized the fact that certain articles of the Convention had not been dealt with separately and lacked detailed information, that the report appeared to be more theoretical and did not contain information on the de facto situation of women and that it contained technical errors and contradictions. One of those errors pertained to table 2 and was explained by the representative as a typographical error in the translated version (it should read 1984 and not 1974). Members of the Committee pointed out the scarcity of statistical data, in particular regarding the issues of violence against women, migrant women, women migrating to urban areas and the drop-out rate for female school attendants.

9. While the law relating to disabled persons was praised, further comments on its legal provisions were requested. It was asked which new laws had been adopted since the country's accession to the Convention and which laws gave priority to women.

10. Members said that the implementation of an anti-discrimination policy required that policies be diversified and touched upon religious and ideological issues. True gender equality did not allow for varying interpretations of obligations under international legal norms depending on internal religious rules, traditions and customs. Clarification was requested for the concept of "women's natural tasks", as referred to in the report.

11. As regards the request for further information on the Great Green Document on Human Rights, the representative referred to General Assembly document A/44/331, paragraph 21 of which called for equality between women and men.

12. Members noted with satisfaction the many positive developments on the road to achieving equality between women and men, such as the admission of women into the judiciary, the entry of women into the armed forces, the creation of a centre for women's studies, the fixing of the same minimum age at marriage for women and men, the amendment of school books, the placement of restrictions on polygamy, the publicity given to the Convention in the media, the setting up of a department of women's affairs and the support given to women's non-governmental organizations (NGOs). However, the image of women in the media needed to be changed.

13. The representative explained that the main tasks of the Assistant Secretary of the General People's Congress were the collection of data and documentation and the evaluation and analysis of issues relating to women; the elaboration of plans to integrate women in all social, cultural, economic and political spheres of life; the removal of existing obstacles; the coordination and dissemination of information regarding the achievements of women and the promotion of women's access to international and national political forums. Additional coordination offices had been established to assist in raising the awareness and consciousness of women.

14. Members of the Committee sympathized with women and men in the country because of their sufferings as a result of Security Council resolution 748 (1992) concerning the aerial embargo, and said that such sanctions always had a strong impact on the status of women and children.

2. Questions related to specific articles

Article 2

15. The representative said that the principle of gender equality was clearly spelled out in the Constitution and in the Great Green Document on Human Rights. Libyan legislation protected the rights of all citizens, regardless of gender, particularly in the fields of education, health and social, cultural, professional and political life, and set out corresponding measures to guarantee those rights.

16. Replying to questions related to what kind of recourse action was available to women who had been discriminated against, he stated that the Supreme Court had stressed the principle of equality as a fundamental human right and that all citizens had the right to resort to the courts in the event of any violation of that fundamental right. He pointed out that any laws that discriminated against women had been abolished and that penal law did not contain any discriminatory provisions.

Article 3

17. The representative explained that the Government had adopted many executive and administrative measures to safeguard women's exercise of their rights and freedoms in the same way as for men. Women enjoyed their natural rights in professional associations and syndicates and could assume their natural roles in society.

Article 4

18. Members felt that the Government had taken some special measures although they were not reflected as such in the report. Members were doubtful whether the meaning of article 4 had been properly understood. They expressed the hope that the subsequent report would take those observations into consideration. Members asked how the new Department of Women's Affairs in the secretariat of the General People's Congress cooperated with NGOs and whether the department was considering taking temporary special measures.

19. Replying to those questions, the representative said that special measures had been taken at the executive level in giving women the right to take posts in the judiciary, to participate in female basic people's congresses and other conferences and in creating a military academy for girls.

Article 5

20. Although members commended the prohibition of violence against women, they asked what measures were established for preventing such violence and for protecting the victims, and whether women were allowed to leave their husbands in the event of violent acts. The representative stated that, according to the law, violence against women within marriage was prohibited. In cases of acts of marital violence, women could seek separation in court and unmarried women who became victims of violence could also resort to the courts. No statistical data were available, but violence against women did not constitute a dangerous phenomenon in the country.

21. Regarding questions concerning female circumcision, the representative stated that the practice of female circumcision did not exist in the country.

22. Referring to traditional attitudes, members queried the concept of stereotypes in the country. Although the report stated that stereotypes had been eliminated in textbooks, it suggested that the concept was maintained as regards women's roles in society. When asked which customs jeopardized the advancement of women and what measures had been undertaken to remove such negative traditional attitudes, the representative said that women's concerns were taken into consideration in all development plans, such as in the development of school curricula favourable to women. Women's efforts to acquire knowledge and enter into judicial and diplomatic posts, as well as to pursue trades, undertake vocational training and travel outside the country were manifestations of changes in the attitudes of Libyan society.

Article 6

23. With reference to the general recommendations of the Committee regarding the issues of violence against women, HIV/AIDS and the Declaration on the Elimination of Violence against Women, members requested more detailed information on the implementation of their provisions.

24. Considering that prostitution was a widespread phenomenon, members sought more information on the de facto situation and the exploitation of women by way of prostitution, and asked for relevant statistical data. Concerning law 70 of 1973, it was asked whether the sanction under article 407 applied to the prostitute or to the client, what the criteria were for an "indecent act" under article 408, whether male prostitutes were put under the same sanctions as female prostitutes and what the sanctions for offences under articles 415 and 416 were.

25. The representative replied that since traffic in women and forced prostitution were punishable crimes, no policy measures regarding prostitution existed.

26. In additional observations, members requested clarification of the rights of prostitutes who were also women and, as such, should be covered by the Convention.

27. Members inquired why sanctions against prostitution were linked to those against adultery.

28. The representative explained there was no discrimination in the punishment for adultery, whether committed by men or women.

29. Addressing questions regarding artificial insemination the representative apologized for the mistake of including the issue under article 6 and said that artificial insemination was permissible only between husband and wife and that it required the consent of both.

Article 7

30. Clarification regarding the political organization of the country was sought, and members asked for detailed statistical indicators in subsequent reports in order to illustrate the progress made.

31. Members inquired whether women's organizations were set up by the Government or at their own initiative, and whether women had the right to vote. They felt that what was stated in the report under article 7 reflected the patriarchal structure of Libyan society and its discriminatory spirit, in that decisions regarding women's issues were taken in special female bodies. Furthermore, they inquired about the relationship between the People's General Congress and the female basic people's congresses, and asked whether the female congresses had decision-making power over national issues, and if so, which ones. Members also asked which posts were exclusively reserved for women, because such measures could also be discriminatory against women.

32. The representative explained that the incumbents of the various political posts mentioned in the report were elected, not nominated. Women were admitted not only to the female basic people's congresses, but also to other forums. It was difficult to quantify women's participation in political life, but there were special programmes for raising political awareness among women.

33. Regarding the statement in the report that "no political concentration camps" existed in the country, the representative said that the correct translation should read "no female political prisoners exist in the country, at the time of writing this report".

34. In additional observations, members expressed concern about the fact that women could participate equally with men in times of war and carry weapons but that, once the conflict was over, their political rights were overlooked.

Article 9

35. In reply to the question as to whether women were made aware of their rights under the law concerning nationality, the representative said that all

laws were published in the official gazette and could be consulted by any citizen.

Article 10

36. Regarding comments made on the gap in enrolment figures between boys and girls in secondary education and regarding questions about the reasons for that phenomenon, the representative said that it would be necessary to update relevant statistics and to investigate the reasons. No information was given about programmes for girls who dropped out of school.

37. Members expressed concern about certain stereotypical attitudes in school education. They asked for clarification of family-life education and whether education was geared to girls and young women in such a way that they could take advantage of their rights. The representative said that coeducation existed.

Article 11

38. Members requested data on all occupations, broken down by sex, and on female unemployment. They wanted to know in which branches of activity women were in the majority and whether as many women were employed in the private sector as in the public sector.

39. Commenting on the provision that employers with a workforce of over 50 women were required to provide child-care facilities, members said that in effect it prevented the opening of child-care facilities because only a few enterprises had more than 50 working women.

40. Regarding inquiries about the professions that were deemed dangerous to women and the request for explanations concerning the prohibition of night work for women, the representative said that the list of dangerous professions was not available and that the policy had been adopted not to discriminate against women, but to protect them.

Article 12

41. Questions under this article referred to the greater number of men than women living in the Libyan Arab Jamahiriya and whether that was the result of the higher mortality rate of women; the issue of teenage pregnancies in the light of the health risks involved and their consequences for women's advancement; the position of disabled women and the reasons for the rule that the husband's approval was necessary in cases of family planning.

42. Members noted that the large number of nurses confirmed that women mostly took up traditional feminine careers and they requested statistics on the incidence of HIV/AIDS and information on policies and measures to prevent that disease.

Article 14

43. Members asked what unpaid agricultural work was.

Article 16

44. Members sought clarification for the contradictory statements in the report referring to custody and tutelage after divorce and inquired whether the Government intended to remove such discriminatory practices as the passing of custody of the children to the father after divorce, the loss of all the woman's rights and the obligation to pay compensation in case of divorce by the wife. Clarification was also requested for the provision under which a woman had the right to choose her husband and enter into marriage after consulting her legal guardian.

45. Regarding questions about contracted marriages, marriages between close kin and their percentages, the representative said that, except for a marriage to the mother, sister or niece, marriage to a relative was possible although, according to tradition, marriages should not be contracted between close relatives.

46. Considering that it was stated in the report that husband and wife had equal rights, but different responsibilities, members asked whether such a provision, as well as the provisions regarding dowry, diminished the exercise of equal rights for women.

47. Concerning the "limited framework" regarding polygamy, the representative explained that Libyan legislation preferred monogamy and that polygamy was the exception to the rule and on the decrease. Marriage to a second wife was permitted only upon written permission by the first wife or by the courts and, furthermore, only if the husband's health and financial situation allowed it. As regards the reaction of women to the practice of polygamy the representative said that they had the choice of objecting to it or accepting it. Experts questioned whether any woman would agree to such an arrangement except under the threat of divorce or other forms of coercion.

48. Regarding the adoption of children, the representative explained that it was not legitimate in Islam, because Islamic law did not permit giving a person a name other than that of the father. Care of a child was acceptable without changing its name.

49. He explained that the provision under which female children inherited half of what male children inherited was not discriminatory to women, since women acquired that part of the inheritance without commitments, whereas men had to take over all the concomitant obligations. Therefore, the Shairah should not be interpreted as discriminatory. The members consequently felt that there was no need to enter a reservation, because, with that interpretation, women were treated equally with men.

50. In the course of additional observations members expressed concern about the issues of inheritance and adoption.